

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JASON MOOMJY, Individually and On Behalf
of All Others Similarly Situated,

Plaintiff,
v.

HQ SUSTAINABLE MARITIME
INDUSTRIES, INC., NORBERT SPORNS and
JEAN-PIERRE DALLAIRE, *et al.*,

Defendants.

Case No. 2:11-cv-00726-RSL

CLASS ACTION

**RESPONSE TO THE OBJECTION OF
MARK P. HANSON**

NOTE ON MOTION CALENDAR:
March 21, 2013 at 10:30 a.m.

ORAL ARGUMENT REQUESTED

1 Lead Plaintiff Trigon Emerging Agri-Sector Fund (the “Trigon Fund” or “Lead
2 Plaintiff”) hereby responds to an objection to the Settlement¹ received from Mark P. Hanson,
3 dated March 5, 2013 (“the “Objection”) (Dkt. No. 150).

4 Mr. Hanson filed an objection to the Settlement because 1) he “believe[s] a clear case of
5 fraud can be made against the Defendants, in particular Norbert Sporns”; and 2) “the amount of
6 the [S]ettlement is insufficient to adequately compensate for the losses incurred by individuals
7 like me.” As set forth below, Lead Counsel has thoroughly reviewed the materials that Mr.
8 Hanson submitted and also spoke with him on March 12, 2013 regarding his concerns. By the
9 end of that call, Mr. Hanson stated that he appreciated hearing Lead Counsel’s explanation of
10 why Lead Plaintiff agreed to the Settlement, and further stated that if Lead Plaintiff, who
11 possessed the largest financial interest in the action, did not object to the Settlement, then he
12 would not object to it either.

13 Nevertheless, Lead Plaintiff feels compelled to respond to Mr. Hanson’s objection. First,
14 as a factual matter, Mr. Hanson relies on sources for his objection that Lead Counsel consulted
15 prior to filing the Amended Complaint (Dkt. No. 93). *See, e.g.*, Amended Complaint at ¶¶ 15,
16 94-96, 137-38 (HQSM’s 3Q 2010 Form 10-Q and information obtained from CW-2). Mr.
17 Hanson’s submission alters neither Lead Counsel’s nor Lead Plaintiff’s view of the strength of
18 the action. Second, as a legal matter, and of critical importance, Mr. Hanson’s “facts” provide
19 no evidence that Defendants could withstand a greater judgment. As explained at length in the
20 Declaration of Julie G. Reiser in Support of: (1) Lead Plaintiff’s Motion for Final Approval of
21 Class Action Settlement and Plan of Allocation; and (2) Lead Plaintiff’s Application for Award
22 of Attorneys’ Fees and Reimbursement of Expenses (“Reiser Decl.”) (Dkt. No. 149), Lead
23 Plaintiff has evidence of the opposite, namely that if Defendants were compelled to contribute a
24 greater amount, the Settlement could not have been achieved and Class Members would receive

25 _____
26 ¹ Mr. Hanson has not objected to the Plan of Allocation or to Plaintiff’s Counsel’s
application for an award of attorneys’ fees and reimbursement of expenses.

nothing. Indeed, Defendants ultimately contributed *nothing* to the Settlement, even after they had voluntarily agreed to contribute; rather, the Settlement was funded entirely by HQSM's insurers and its directors' and officers' insurers. Reiser Decl. ¶¶ 13-14. To be clear: if Defendants' insurers were unable to extract the modest amount from the Company that it had voluntarily agreed to contribute to the Settlement, it stands to reason that Lead Counsel could not extract a greater amount in Settlement – nor is it likely that a greater amount could be collected from a Company that appears to be non-existent after trial and appeals. The fact that HQSM has been delisted from the New York Stock Exchange, has not made filings with the SEC since 2011, and no longer has business operations in the United States all support the conclusion that it lacks liquidity. In sum, there is no evidence that the Company could contribute *any* amount to a Settlement, much less an amount greater than the Parties negotiated.

Lead Plaintiff appreciates, and shares, Mr. Hanson's concerns regarding the magnitude of the losses incurred by HQSM's shareholders. Nevertheless, for the reasons set forth in this Response as well as in Lead Plaintiff's prior submissions to the Court, Lead Plaintiff respectfully submits that the Court should grant final approval of the Settlement.

Dated: March 14, 2013

KELLER ROHRBACK L.L.P.

/s/ Elizabeth A. Leland

Lynn Lincoln Sarko, WSBA # 16569

Juli E. Farris, WSBA # 17593

Elizabeth A. Leland, WSBA # 23433

1201 Third Avenue, Suite 3200

Seattle, WA 98101-3052

Telephone: (206) 623-1900

lsarko@kellerrohrback.com

jfarris@kellerrohrback.com

eleland@kellerrohrback.com

Liaison Counsel for Lead Plaintiff and the Class

1 COHEN MILSTEIN SELLERS & TOLL PLLC

2 Steven J. Toll

3 Julie G. Reiser, WSBA # 27485

4 S. Douglas Bunch

5 1100 New York Avenue, N.W.

6 Suite 500, West Tower

7 Washington, D.C. 20005

8 Telephone: (202) 408-4600

9 stoll@cohenmilstein.com

10 jreiser@cohenmilstein.com

11 dbunch@cohenmilstein.com

12 *Lead Counsel for the Class*

CERTIFICATE OF SERVICE

I hereby certify that on March 14, 2013, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following ECF participants:

Brian Weinstein (Terminated) brian@weinsteincouture.com, briandw@comcast.net

Dan Drachler ddrachler@zsz.com

Elizabeth Ann Leland bleland@kellerrohrback.com, dwilcher@kellerrohrback.com

Erin Maura Riley eriley@kellerrohrback.com, chopkins@kellerrohrback.com

James P Savitt jsavitt@jetcitylaw.com, asayson@jetcitylaw.com, dcolvin@jetcitylaw.com, dpeters@jetcitylaw.com, mgranger@jetcitylaw.com, tcowden@jetcitylaw.com

Jeremy E Roller jroller@yarmuth.com, smeyer@yarmuth.com

Juli E. Farris jfarris@KellerRohrback.com, lbachmann@kellerrohrback.com

Julie Goldsmith Reiser jreiser@cohenmilstein.com

Karl Phillip Barth karlb@hbsslaw.com, dawn@hbsslaw.com, shelbys@hbsslaw.com

Kenneth Lee Karlberg ken@karlberglaw.com

Lynn Lincoln Sarko lsarko@kellerrohrback.com, cengle@kellerrohrback.com

Marc D Ashley mashley@chadbourne.com

Marcelo Blackburn mblackburn@chadbourne.com

Mary K. Blasy mblasy@scott-scott.com, efile@scott-scott.com

Michael D Handler mhandler@cozen.com, mstone@cozen.com

Peter M. Ryan pryan@cozen.com, kduffy@cozen.com

Robert W Hayes rhayes@cozen.com, egomez@cozen.com, sgerhard@cozen.com

Stephen L. Brodsky sbrodsky@zsz.com

Steve W. Berman steve@hbsslaw.com, heatherw@hbsslaw.com, robert@hbsslaw.com

Steven J Toll stoll@cohenmilstein.com, efilings@cohenmilstein.com

Thomas J. McCormack tmccormack@chadbourne.com

William R Spurr bill@williamrspurr.com

/s/ Elizabeth A. Leland

Elizabeth A. Leland